

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2620 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SURYAKANT B PATEL

Versus

DIRECTOR OF DRUGS & FOOD ADMINISTRATION

Appearance:

MR KB PUJARA for Petitioner

MR AJ DESAI, LD. ASST. GOVT. PLEADER for Respondent No. 1

MR SK JHAVERI for Respondent No. 2, 3

CORAM : MR.JUSTICE B.C.PATEL

Date of decision: 13/08/96

ORAL JUDGEMENT

By filing this petition, the petitioner has prayed for issuance of a writ directing the respondents to forthwith make payment of the petitioner's dues of arrears of salary according to the judgment and order dated 6.8.1984 passed by the Gujarat Affiliated Colleges Services Tribunal (hereinafter referred to as the Tribunal).

2. The services of petitioner, who was working as a Demonstrator with the respondent No. 3 College, came to be terminated by an order dated 30.3.1979. The petitioner challenged that action before the Tribunal, by filing Application No. 3 of 1984, and the Tribunal, by its judgment and order dated 6.8.1984, ordered the respondents to reinstate the petitioner in service with continuity of service and to pay him the full back wages including the increments etc. Copy of the order is annexed at annexure 'A' to the petition, wherefrom it appears that there were four respondents. Opponents No. 1, 2 and 4 before the Tribunal are respondents No. 2, 3 and 1 respectively before this Court. The learned advocate for the petitioner contended that the Tribunal has directed the respondents to reinstate the petitioner and to pay him the backwages, and, therefore, the respondents are bound to comply with the said order.

3. It is required to be noted that under Article 227 of the Constitution, this Court is not a Court executing decree. For execution, the petitioner ought to have approached the appropriate forum. According to the learned advocate for the petitioners, when the facts are admitted, a mere direction is only required to be given by this Court. The direction is already given by the Tribunal to the respondents to make the payment. Therefore, there is no question for this Court to issue another direction.

4. Several applications were filed in this Court for taking action under the Contempt of Courts Act as the amount awarded by various Tribunals were not being paid to the persons who were entitled to get it under such awards. A Division Bench of this Court, in the case of G.R. BHATT VS. D.N. SANGHVI, PRINCIPAL reported in 37 (1) GLR 812 has held that a Tribunal which has powers to decide a dispute finally and which has the trappings of a Court, is a Court. There is always enforcement of rights by the execution of the judgment and order as if it is a decree. In paragraph 38 of the judgment, the Court has held as under :-

"In view of our finding that all procedure as far as it is applicable laid down in C.P.C., will apply, we would like to make it clear that after passing the award if the same is not complied with by the respondent, then the petitioner can move the Tribunal again by way of application to

execute the same and the procedure to be followed by the Tribunal, utilising its own infrastructure, would be like a Civil Court, which executes its own decree and orders. May be that the Tribunal be burdened with an additional work, but that is not the concern of this Court."

In view of this, a party who is entitled to recover any amount under an award passed by a Tribunal, has to approach that Tribunal for execution of its award or orders.

5. Mr. Pujara, learned advocate submitted that the Tribunal is now not available. Merely because the Tribunal is now not available for the time being, it does not mean that this Court should perform the work of an executing Court. When the Tribunal was available, action could have been taken. The petitioner should first approach the Tribunal in this regard, and if there is an urgency, and if law permits, he may move the appropriate forum.

6. In the result, this petition is required to be rejected, and is rejected. Rule discharged. Interim relief stands vacated.

csm./